

**New Hampshire Racing & Charitable Gaming Commission
Commission Meeting
Concord Office
February 11, 2013
13-02**

Present: Timothy J. Connors, Chairman
Warren W. Leary Jr., Secretary
Frederick H. Booth, Member
Michael J. Gatsas, Member
Lynn M. Presby, Member
Anthony B. Urban, Member
Paul M. Kelley, Director
Charles J. Saia, Legal Coordinator
Steve Johnston, Supervisor Gaming Operations
Billie Jean Arseneault, Gaming/Licensing Supervisor
Jennifer Razzaboni, Auditor
Linda R. Darrow, Administrative Secretary

In Attendance: Ed Callahan, Dick Bouley, Dan Mullen, Rick Newman, George Roberts, Peg O'Brien, Nick Bonardi, Jamie Timbas, Giovanna Bonilla and others.

The Chairman called the meeting to order at 11:05 a.m. Deputy Director Naik was not present due to last minute budget items needing to be addressed.

Public Hearing

Chairman Connors opened the public hearing regarding certain sections of Pari 300, 1000 and 1100 pertaining to the racetrack license applications, carryover Bingo game prize and Lucky 7 rolling jackpot, double-sided Lucky 7 tickets and seal cards. The Chairman asked the public if they had any comments in favor of the proposals. None were forthcoming. The Chairman asked the public if they had any comments opposed to the proposals. None were forthcoming. Chairman Connors closed the public hearing at 11:10 a.m.

Director Kelley made a comment regarding Notice #2012-215, Rule Pari 1102.16 "Double Sided Lucky 7 ticket". He felt the following change would clarify the definition: change the current wording 'on either side of the ticket' on the second line to '***on either, or both side(s) of the ticket***'. On a motion by Commissioner Gatsas, seconded by Commissioner Urban and unanimously voted to approve as amended Pari 1102.16, Pari 1112.05 (a) (4) and Pari 1112.05 (b) & (c).

On a motion by Commissioner Booth, seconded by Commissioner Urban and unanimously voted to approve Pari 303.01 (a) & (b).

On a motion by Commissioner Booth, seconded by Commissioner Presby and unanimously voted to approve Pari 1010.02 (m) and Pari 1109.01 (q).

On a motion by Commissioner Presby, seconded by Commissioner Booth and unanimously voted to approve Pari 2201.17, Pari 1109.01 (1), Pari 1112.05 (d) & (e) and Pari 1112.06 (c) (1)-(16).

Ms. Giovanna Bonilla Hearing

At 11:17 a.m., the Chairman opened the hearing for Ms. Bonilla relative to the denial of her application for a Primary Game Operator License for Games of Chance. The chairman swore in those who were to testify:

Ms. Giovanna Bonilla
Ms. Billie Jean Arseneault-Gaming/Licensing Supervisor
Mr. Chuck Saia-Legal Coordinator

After testimony was given, the Chairman asked if anyone else had any testimony or evidence to offer. There being none, the Chairman closed the hearing at 11:25 a.m. On a motion by Commissioner Presby, seconded by Commissioner Booth and unanimously voted, based on all evidence received and all testimony heard, for the following:

IN THE MATTER OF **Giovanna A. Bonilla**

Decision & Order **Appeal of Denial for a** **Primary Game Operator** **Games of Chance License**

Findings of Fact

1. On December 28, 2012, the RCGC received a Primary Game Operator License Application from Giovanna A. Bonilla, DOB 07/01/1984, 16 Tilton Street, Nashua, NH 03063. The application requested employment as a primary game operator for Boston Billiard Club. Licensing Supervisor Billie Jean Arseneault reviewed Ms. Bonilla's application for licensure.
2. Ms. Bonilla noted on her application, at page 3, Section 6 A., that she had been "arrested, detained, charged...for any criminal offense..." as requested on the application.
3. Ms. Bonilla signed her application on December 28, 2012, and certified that the information which she provided was true, accurate and complete.
4. Pursuant to a duly executed (by Ms. Bonilla) authorization for the release of criminal history record, the RCGC received a copy of Ms. Bonilla's State of NH Criminal History Record and Federal Background Investigation Results on November 30, 2012.
5. Supervisor Arseneault reviewed Ms. Bonilla's Criminal History Record(s).
6. Supervisor Arseneault noted that Ms. Bonilla's NH Criminal History Record(s) revealed, that on March 16, 2009, she received a guilty conviction for a Class B Misdemeanor, to wit: "Driving or Operating under the Influence of Drugs or Liquor, in violation of RSA 265-A:2". The Justice of the Nashua District Court dispensed a \$500.00 fine.
7. On January 4, 2013, after reviewing the application in conjunction with the NH Criminal History Record, Supervisor Arseneault denied Ms. Bonilla's Application and notified her of the same via certified mail, return receipt requested. Supervisor Arseneault notified Ms. Bonilla of her appellate rights and enclosed an appeal form. Ms. Arseneault's denial was based upon the prior Misdemeanor B conviction.

8. Ms. Bonilla filed her Appeal Form with the RCGC on January 14, 2013.
9. On January 30, 2013, Legal Coordinator Saia notified Ms. Bonilla of her appeal hearing date (scheduled for February 11, 2012) via certified mail, return receipt requested.
10. At the February 11, 2013 hearing, Ms. Bonilla provided testimony, which, in part, referenced:
 - a. Ms. Bonilla was aware that she may have an attorney represent her interests before the Appeal Hearing; however she desired to proceed without a lawyer.
 - b. Ms. Bonilla was aware that the audio portion of the Appeal Hearing was being "tape recorded".
 - c. Ms. Bonilla acknowledged that the 2009 conviction was duly attributable to her.
 - d. Ms. Bonilla stated that she had made a mistake in 2009, and had never had any issues with the law prior to the event or thereafter.
 - e. Ms. Bonilla explained that she had learned from the event, and will not have any further incidences of this nature.
 - f. Ms. Bonilla stated that she is currently employed as the General Manager of Boston Billiard Club and is enthusiastic to potentially assume the role of Primary Game Operator.
 - g. Ms. Bonilla asserted that she is also working with her attorney to petition the court to annul her conviction.

Conclusions of Law

1. Pursuant to RSA 287-D:2-b VI, "...no person who has in any jurisdiction, been convicted of a felony or class A misdemeanor within the previous 10 years which has not been annulled by a court, or a class B misdemeanor within the past 5 years which has not been annulled by a court, or who has violated any of the statutes or rules governing charitable gambling in the past shall operate a game of chance licensed under this chapter, ...".
2. Pursuant to RSA 287-D:8, II, the Commission has the authority to determine eligibility and fitness for licensure.
3. The Commission concludes that each appeal and license application is separate and distinct from every other appeal and license application and a decision on an appeal or license application is based on the information received regarding that specific application.
4. Based on testimony given and information received, the Commission determined Ms. Bonilla's eligibility and fitness for licensure.
5. Based on testimony given and information received, the RCGC concludes, pursuant to RSA 287-D:8, II, that Ms. Giovanna A. Bonilla is fit to be associated with games of chance, and therefore she is eligible for licensure and she is fit to be associated with games of chance, as a primary game operator.

Order

The Racing & Charitable Gaming Commission orders that the denial of Ms. Giovanna A. Bonilla's Primary Game Operator Application for a Game Operator License is **REVERSED**.

On a motion by Commissioner Urban, seconded by Commissioner Booth and unanimously voted to approve and place on file the minutes dated January 18, 2013.

On a motion by Commissioner Booth, seconded by Commissioner Presby and unanimously voted to accept and place on file the Games of Chance/Bingo/Lucky 7 warning letters/late financials spreadsheets.

The Games of Chance State Revenue spreadsheets were reviewed. On a motion by Commissioner Urban, seconded by Commissioner Booth and unanimously voted to accept and placed on file.

Legal Coordinator Saia provided an overview of the legislative update. Both he and Director Kelley have been attending the scheduled hearings on these bills. Although Chairman Connors was unable to attend the hearing on HB 564, he requested Director Kelley to put in a card stating the Chairman's opposition to this bill.

Mr. George Roberts addressed the Commission asking them to send a letter of opposition to HB 564. Mr. Dick Bouley expressed agreement with Mr. Robert's request. Discussion ensued. The passage of this bill would result in loss of revenue for the state and loss of jobs at the track. Mr. Ed Callahan agreed to provide staff with specific data related to the effects closing the tracks would have on the NH economy. (See below for motion made in later discussion of this bill).

Legal Coordinator Saia noted that SB152, sponsored by Senator D'Allesandro and Senator Morse (among others) relative to video lottery and table gaming, contains a formula to ensure the financial stability of charitable gaming should a casino be established in NH. Discussion ensued. Director Kelley was asked to meet with the bill sponsors in order to keep the Commission informed on developments related to this bill and any others that will affect charitable gaming/racing in NH. The question was also raised as to why horse racing is not mentioned in SB152.

Discussion moved on to the statute that deals with the preparation and submission of the Games of Chance monthly financial reports. Although the game operator is required to prepare and submit the monthly financial reports, is the charitable organization required to sign the report? Game operators who were present stated a representative of the charities is not always available to provide a signature. Discussion ensued. On a motion by Commissioner Booth, seconded by Commissioner Leary and unanimously voted to ask the game operators to include in the original packet of paperwork they provide charities an affidavit to be signed by the charity representative allowing the game operator to submit the monthly financial reports without their signature. The affidavit will be kept on file by the game operator and subject to an audit, should the agency desire to undertake one.

Tabled

- a. *Staff to prepare policy statement regarding unlicensed machines, equipment and/or devices installed in licensed facilities:* On a motion by Commissioner Urban, seconded by Commissioner Presby and unanimously voted to approve Commissioner Booth's addition of the words "**or suspension**" at the end of the second paragraph of the policy statement. Commissioner Urban made a motion to accept the inclusion of the words "**or that are authorized by state law**" in the first paragraph submitted by Mr. Newman. Commissioner Leary seconded. Discussion ensued. Because no consensus could be reached, it was decided that the Commission would revisit this item after the non public session. (Please see below for resolution)
- b. *Casino Game Rental bond issue:* Legal Coordinator Saia stated that the final written order by the Coos County Superior Court was received by the AG's office granting RCGC's motion to dismiss. Because no correspondence was received by RCGC from the AG's office regarding this order, Legal Coordinator Saia was asked to follow up with the AG's office to obtain their written response to this matter.

Correspondence:

None.

Old Business:

None.

New Business:

None.

There being no questions or comments from the audience, at 12:20 p.m., on a motion by Commissioner Urban, seconded by Commissioner Booth and by a unanimous roll call vote the Commission voted to adjourn the regular meeting and go into nonpublic session as allowed under RSA 91-A:3, I (b), II(c) and II(j)

Connors	-	Yes
Leary	-	Yes
Booth	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Urban	-	Yes

At 12:35 noon, on a motion by Commissioner Leary, seconded by Commissioner Urban and by a unanimous roll call vote the Commission voted to come out of the nonpublic session and permanently seal the nonpublic minutes.

Connors	-	Yes
Leary	-	Yes
Booth	-	Yes
Gatsas	-	Yes
Presby	-	Yes
Urban	-	Yes

Discussion returned to the policy statement regarding machines, equipment, devices and paraphernalia. On a motion by Commissioner Gatsas, seconded by Commissioner Booth and unanimously voted to approve the Policy Statement to read as follows:

A Policy Statement of the NH Racing & Charitable Gaming Commission
Regarding
Machines, Equipment, Devices and Paraphernalia

“Any individual, entity, bingo licensee, lucky 7 licensee, games of chance licensee, facility licensee, or any charitable organization, (licensed by this Commission to operate bingo, sell lucky 7 tickets, or conduct games of chance) shall permit only those machines, devices, equipment or paraphernalia (intended for gambling) that are approved by this Commission or another state agency to be on a licensed premises or in a structure under the control of any licensee authorized by this Commission to operate bingo, sell Lucky 7 tickets, or conduct games of chance.

The existence, operation, or possession of any machine, device, equipment or paraphernalia not approved by this Commission, or another NH state agency, (intended for gambling) in a licensed

facility will expose the licensee to administrative proceedings, which may result in penalties, fines, license revocation or suspension.”

The discussion returned to the various bills which are before the legislature. Discussion ensued relative to HB 665, HB 678 and SB 152 which all propose, in various forms, the building of casino(s) for legalized gambling. Commissioner Gatsas noted that none of the bills discuss the revitalization of live thoroughbred horse racing in the state. The Commission discussed the drafting of a letter to the sponsors of the bills relative to an amendment regarding live horse racing. On a motion by Commissioner Gatsas, seconded by Commissioner Urban, and voted 5-1, with Commissioner Gatsas abstaining, to direct the agency to draft a letter to Senator D’Allesandro (one of the sponsors of SB 152) requesting an amendment to the bill which would allow for thoroughbred racing in NH.

Further discussion ensued relative to HB 564, which would essentially prohibit the selling of pari-mutuel greyhound pools for races simulcast from states which do not provide their injury reports to the public. The Commission was apprised of the letter sent by Ms. Karen Keelan, wherein she notified her employees that Seabrook Park would be closed effective July 1, 2013, should the bill pass. The Commission discussed the loss of jobs, the loss of state revenue, the loss of ancillary taxes such as meals tax, and the loss of revenue totaling nearly \$900,000.00. On a motion by Commissioner Presby, seconded by Commissioner Urban, and unanimously voted to direct the agency to draft a letter to Representative Almy, Chairman of the House Ways & Means Committee, requesting the bill to be voted Inexpedient to Legislate.

The next meeting is scheduled for Monday, March 4th at 11:00 a.m., to be held in the Board of Pharmacy conference room.

The Chairman closed the public meeting at 12:55 p.m.

Respectfully Submitted,

Warren W. Leary, Jr.
Secretary